

Application No: 10/773,226
Attorney's Docket No: ALC 3117

REMARKS/ARGUMENTS

Claims 1-17, 19-30, 33-34, 36-41, and 43-50 are pending in the present application, of which claims 1, 13, 14, 17, 33, and 37 are independent. Claims 1, 13, 14, 17, 33, 34, and 37 are amended. New claims 46-50 are added.

REJECTIONS UNDER 35 U.S.C. § 112

In section 3 on pages 2-4, the Office Action rejects claims 17, 19, 33-34, 36-39, 41, and 44-45 under 35 U.S.C. § 112, first paragraph, as allegedly failing to comply with the enablement requirement. Applicant respectfully traverses this rejection and individually addresses the subject matter that the Office Action alleges was not described in the specification.

Regarding claim 17, the description of dropping "low priority packets" in paragraph [0040], for example, enables the recited subject matter. The Office Action appears to reject claims 19, 38, and 39 based solely on their dependency from claim 17. In addition to enabling independent claim 17, the specification separately enables these claims.

Regarding claims 33 and 34, these claims no longer recite "user-programmable link references." Claim 33 now recites a step wherein "a user may configure threshold levels of link performance parameters," subject matter that finds support in the specification in paragraph [0032], for example. Claim 34 now recites a step wherein "said link performance parameters include available bandwidth," subject matter that finds support in the specification in paragraph [0027], for example.

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Regarding claim 36, the description of having data "normally traverse the wireline link" in paragraph [0025], for example, enables the recited subject matter.

Regarding claim 37, this claim no longer recites "maintaining said wireless link available only on request." Claim 37 now recites a step of "normally placing no load on said wireless link." This subject matter finds support in paragraph [0025] of the specification, for example.

Regarding claim 39, the description of having the wireline network not carry traffic "when traffic is switched to the wireless link" in paragraph [0038] of the specification, for example, enables the recited subject matter.

Regarding claim 41, the description of having "a small amount of the low priority user traffic" used as a test signal in paragraph [0028], for example, enables the recited subject matter.

Regarding claims 44 and 45, the description of employing "additional data filtering mechanisms" at the customer premise and a network provider in paragraph [0036], for example, enables the recited subject matter.

For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 17, 19, 33-34, 36-39, 41, and 44-45 under 35 U.S.C. § 112, first paragraph, be withdrawn.

In section 5 on pages 4-5, the Office Action rejects claims 17, 19, and 38 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. Specifically, the Office Action alleges that there is insufficient antecedent basis for the following term: "said step of filtering" (claim 17, line 9). In response, Applicant deletes "said step of filtering" from independent claim 17. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 17, 19, and 38 under 35 U.S.C. § 112, second paragraph, be withdrawn.

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REJECTIONS UNDER 35 U.S.C. § 103

In section 7 on pages 5-8, the Office Action rejects claims 1-2 and 9-12 under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent Application Publication No. 2004/0078626 to Li (hereinafter "Li") in view of U.S. Patent No. 5,185,779 to Dop (hereinafter "Dop") and U.S. Patent Application Publication No. 2001/0043562 to Hrastar (hereinafter "Hrastar"). In section 8 on pages 8-10, the Office Action rejects claims 3-5 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Dop, and Hrastar, further in view of U.S. Patent No. 6,965,775 to Antoniou et al. (hereinafter "Antoniou"). In section 9 on pages 10-11, the Office Action rejects claims 6 and 8 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Dop, and Hrastar, further in view of U.S. Patent No. 6,597,658 to Simmons (hereinafter "Simmons"). In section 10 on pages 11-12, the Office Action rejects claim 7 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Dop, Hrastar, and Simmons, further in view of U.S. Patent 6,714,534 to Gerszberg (hereinafter "Gerszberg"). Applicant respectfully traverses all of these rejections.

Independent claim 1 recites "means for monitoring operation of said wireline link and generating a fault signal upon detection of said performance impairment of the broadband access connection wherein a user may configure threshold levels of link performance parameters that trigger generation of said fault signal" (emphasis added). Support in the specification for the subject matter added to claim 1 can be found in, for example, paragraph [0032].

Applicant respectfully submits that Li does not disclose, teach, or suggest the subject matter quoted above. On page 7, the Office Action correctly concedes that Li lacks a wireless

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link processor. The Office Action then attempts to remedy this deficiency in Li by applying the teachings of Dop. Specifically, the Office Action relies upon Dop's teaching of switching "upon inoperativeness of the telephone line."

As stated in paragraph [0032] of the specification, the wireless channel may be activated in situations where the wireline channel is suffering from "performance impairment," as recited in claim 1. Moreover, a user may "configure threshold levels," as recited in claim 1, to determine whether performance impairment is severe enough to trigger a fault signal.

Thus, claim 1 recites both "detection of performance impairment" and user-configured "threshold levels." Li and Dop fail to disclose, teach, or suggest this subject matter because they neither detect performance impairment nor allow users to control thresholds for link performance parameters that "trigger generation" of a fault signal. Hrastar fails to remedy the deficiencies of Li and Dop. Accordingly, Applicant respectfully asserts that claim 1 is allowable for at least these reasons.

Claims 2-8 and 9-12 depend from allowable claim 1. Thus, claims 2-8 and 9-12 are allowable at least by virtue of their dependencies. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 1-8 and 9-12 under 35 U.S.C. § 103(a) be withdrawn.

In section 11 on pages 12-14, the Office Action rejects claims 13, 15, and 36 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Li in view of U.S. Patent 5,936,938 to Weldon et al. (hereinafter "Weldon"). In section 13 on pages 16-18, the Office Action rejects claims 16, 20, and 22 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the

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combination of Li, Weldon, and Antoniou. In section 16 on pages 21-22, the Office Action rejects claim 21 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Weldon, and Gupta. In section 17 on pages 22-23, the Office Action rejects claims 23, 25, and 27 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Weldon, and Simmons. In section 18 on pages 23-24, the Office Action rejects claim 24 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Weldon, Antoniou, and Simmons. In section 19 on pages 24-25, the Office Action rejects claim 26 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Weldon, Simmons, and Gerszberg. In section 20 on page 25, the Office Action rejects claim 28 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Weldon, further in view of U.S. Patent Application Publication No. 2002/0184376 to Sternagle (hereinafter "Sternagle"). In section 21 on page 26, the Office Action rejects claim 29 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Weldon, further in view of U.S. Patent Application Publication No. 2005/0152385 to Cioffi (hereinafter "Cioffi"). In section 22 on pages 26-27, the Office Action rejects claim 30 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Weldon, further in view of U.S. Patent No. 6,147,966 to Johnson et al. (hereinafter "Johnson"). In section 27 on pages 32-33, the Office Action rejects claims 44 and 45 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Weldon, and Antoniou, further in view of U.S. Patent Application Publication No. 2003/0028093 to Notani (hereinafter "Notani"). Applicant respectfully traverses all of these rejections.

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Independent claim 13 recites a step of "generating a fault signal upon detection of said performance impairment of the broadband access connection wherein a user may configure threshold levels of link performance parameters that trigger generation of said fault signal" (emphasis added). Support in the specification for the subject matter added to claim 13 can be found in, for example, paragraph [0032].

As stated in paragraph [0032] of the specification, the wireless channel may be activated in situations where the wireline channel is suffering from "performance impairment," as recited in claim 13. Moreover, a user may "configure threshold levels," as recited in claim 13, to determine whether performance impairment is severe enough to trigger a fault signal. Thus, claim 13 recites both "detection of performance impairment" and user-configured "threshold levels."

Li and Weldon fail to disclose, teach, or suggest this subject matter because they neither detect performance impairment nor allow users to control thresholds for link performance parameters that "trigger generation" of a fault signal. Antoniou, Gupta, Simmons, Gerszberg, Sternagle, Cioffi, Johnson, and Notani fail to remedy the deficiencies of Li and Weldon. Accordingly, Applicant respectfully asserts that claim 13 is allowable for at least these reasons.

Claims 15-16, 20-30, 36, 44, and 45 depend from claim 13 and are therefore allowable based on at least their dependencies. Antoniou, Gupta, Simmons, Gerszberg, Sternagle, Cioffi, Johnson, and Notani fail to remedy the deficiencies of Li and Weldon. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 13, 15-16, 20-30, 36, 44, and 45 under 35 U.S.C. § 103(a) be withdrawn.

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In section 12 on pages 14-16, the Office Action rejects claims 14 and 40 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Hrastar. In section 25 on page 31, the Office Action rejects claim 41 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Hrastar, further in view of U.S. Patent Application Publication No. 2006/0168336 to Koyanagi et al. (hereinafter "Koyanagi"). In section 26 on page 32, the Office Action rejects claim 43 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Hrastar, further in view of U.S. Patent No. 5,619,951 to Higginson et al. (hereinafter "Higginson"). Applicant respectfully traverses all of these rejections.

Independent claim 14 recites a step of "generating a fault signal upon detection of said performance impairment of the broadband access connection wherein a user may configure threshold levels of link performance parameters that trigger generation of said fault signal" (emphasis added). Support in the specification for the subject matter added to claim 14 can be found in, for example, paragraph [0032].

As stated in paragraph [0032] of the specification, the wireless channel may be activated in situations where the wireline channel is suffering from "performance impairment," as recited in claim 14. Moreover, a user may "configure threshold levels," as recited in claim 14, to determine whether performance impairment is severe enough to trigger a fault signal. Thus, claim 14 recites both "detection of performance impairment" and user-configured "threshold levels."

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Li and Hrastar fail to disclose, teach, or suggest this subject matter because they neither detect performance impairment nor allow users to control thresholds for link performance parameters that "trigger generation" of a fault signal. Koyanagi and Higginson fail to remedy the deficiencies of Li and Hrastar. Accordingly, Applicant respectfully asserts that claim 14 is allowable for at least these reasons.

Claims 40, 41, and 43 depend from claim 14 and are allowable based on at least their dependencies. Koyanagi and Higginson fail to remedy the deficiencies of Li and Hrastar. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 14, 40, 41, and 43 under 35 U.S.C. § 103(a) be withdrawn.

In section 14 on pages 18-20, the Office Action rejects claims 17, 38, and 39 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Li in view of U.S. Patent Application Publication No. 2002/0075868 to Gupta et al. (hereinafter "Gupta"). In section 15 on pages 20-21, the Office Action rejects claims 19 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li, Gupta, and Simmons. Applicant respectfully traverses all of these rejections.

Independent claim 17 recites a step of "generating a fault signal upon detection of said performance impairment of the broadband access connection wherein a user may configure threshold levels of link performance parameters that trigger generation of said fault signal" (emphasis added). Support in the specification for the subject matter added to claim 17 can be found in, for example, paragraph [0032].

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As stated in paragraph [0032] of the specification, the wireless channel may be activated in situations where the wireline channel is suffering from "performance impairment," as recited in claim 17. Moreover, a user may "configure threshold levels," as recited in claim 17, to determine whether performance impairment is severe enough to trigger a fault signal. Thus, claim 17 recites both "detection of performance impairment" and user-configured "threshold levels."

Li and Gupta fail to disclose, teach, or suggest this subject matter because they neither detect performance impairment nor allow users to control thresholds for link performance parameters that "trigger generation" of a fault signal. Simmons fails fail to remedy the deficiencies of Li and Hrastar. Accordingly, Applicant respectfully asserts that claim 17 is allowable for at least these reasons.

Claims 19, 38, and 39 depend from claim 17 and are therefore allowable based on at least their dependencies. Simmons fails to remedy the deficiencies of Li and Gupta. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 17, 19, 38, and 39 under 35 U.S.C. § 103(a) be withdrawn.

In section 23 on pages 27-29, the Office Action rejects claims 33 and 34 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Gupta, further in view of U.S. Patent No. 6,598,229 to Smyth et al. (hereinafter "Smyth"). Applicant respectfully traverses this rejection.

Independent claim 33 recites a step of "generating a fault signal upon detection of said performance impairment of the broadband access connection wherein a user may configure

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threshold levels of link performance parameters that trigger generation of said fault signal" (emphasis added). Support in the specification for the subject matter added to claim 33 can be found in, for example, paragraph [0032].

As stated in paragraph [0032] of the specification, the wireless channel may be activated in situations where the wireline channel is suffering from "performance impairment," as recited in claim 33. Moreover, a user may "configure threshold levels," as recited in claim 33, to determine whether performance impairment is severe enough to trigger a fault signal. Thus, claim 33 recites both "detection of performance impairment" and user-configured "threshold levels."

Li, Gupta, and Smyth fail to disclose, teach, or suggest this subject matter because they neither detect performance impairment nor allow users to control thresholds for link performance parameters that "trigger generation" of a fault signal. Accordingly, Applicant respectfully asserts that claim 33 is allowable for at least these reasons.

Claim 34 depends from claim 33 and is therefore allowable based on at least its dependency. For at least the forgoing reasons, Applicant respectfully requests that the rejection of claims 33 and 34 under 35 U.S.C. § 103(a) be withdrawn.

In section 24 on pages 29-31, the Office Action rejects claim 37 under 35 U.S.C. § 103(a) as allegedly being unpatentable over the combination of Li and Gupta, further in view of U.S. Patent Application Publication No. 2005/0097243 to Yamashita et al. (hereinafter "Yamashita"). Applicant respectfully traverses this rejection.

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Independent claim 37 recites a step of “generating a fault signal upon detection of said performance impairment of the broadband access connection wherein a user may configure threshold levels of link performance parameters that trigger generation of said fault signal” (emphasis added). Support in the specification for the subject matter added to claim 37 can be found in, for example, paragraph [0032].

As stated in paragraph [0032] of the specification, the wireless channel may be activated in situations where the wireline channel is suffering from “performance impairment,” as recited in claim 37. Moreover, a user may “configure threshold levels,” as recited in claim 37, to determine whether performance impairment is severe enough to trigger a fault signal. Thus, claim 37 recites both “detection of performance impairment” and user-configured “threshold levels.”

Li, Gupta, and Yamashita fail to disclose, teach, or suggest this subject matter because they neither detect performance impairment nor allow users to control thresholds for link performance parameters that “trigger generation” of a fault signal. Accordingly, Applicant respectfully asserts that claim 37 is allowable for at least these reasons.

For at least the forgoing reasons, Applicant respectfully requests that the rejection of claim 37 under 35 U.S.C. § 103(a) be withdrawn.

NEW CLAIMS

Newly added claims 46-50 recite “said performance impairment may be any impairment of the group consisting of inadequate throughput, excessive bit error rate, excessive packet loss,

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excessive delay, and excessive jitter" (emphasis added). Support for this subject matter may be found in paragraphs [0027] and [0032]. Claims 46-50 depend from independent claims 1, 14, 17, 33, and 37, respectively, and are allowable based on at least their dependencies.

CONCLUSION

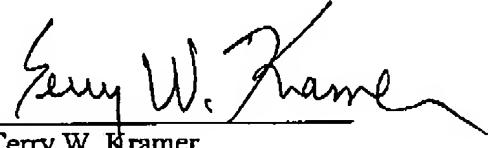
In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

While we believe that the instant amendment places the application in condition for allowance, should the Examiner have any further comments or suggestions, it is respectfully requested that the Examiner telephone the undersigned attorney in order to expeditiously resolve any outstanding issues.

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Respectfully submitted,
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